

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK**

GUSTAVO MARTINEZ,

Plaintiff,

—against—

DANNY BENSUSAN, STEVE BENSUSAN,
GREENWICH VILLAGE ENTERTAINMENT
GROUP LLC,

Defendants.

**DOCKET NO.
18-CV-10657(VEC)**

**DECLARATION OF BRETT SCHATZ, ESQ. IN
SUPPORT OF MOTION TO WITHDRAW AS
ATTORNEY OF RECORD FOR PLAINTIFF
GUSTAVO MARTINEZ AND FOR SIXTY DAY
STAY TO ALLOW PLAINTIFF'S TO OBTAIN
NEW COUNSEL**

Brett Schatz, under penalty of perjury and pursuant to 28 U.S.C. Section 1746 Declares that the following is true and correct:

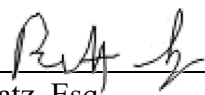
1. I am the attorney of record for Plaintiff Gustavo Martinez.
2. I submit this declaration in support of the instant motion to withdraw as attorney of record and for a sixty day stay of this action to permit Plaintiff to obtain new counsel.
3. This is an action filed under the Fair Labor Standards Act and New York Labor Law seeking damages resulting from Defendants' alleged failure to pay overtime wages.
4. On November 16th, 2018 Plaintiff filed a summons and complaint against Defendants Danny Bensusan, Steve Bensusan and Greenwich Village Entertainment Corp.
5. On January 16th 2019 the Defendant's filed an Answer to the Complaint.

6. On May 31st, 2019 Defendants filed a motion to compel arbitration which was granted in an Order dated October 30th, 2019.
7. The parties were in the process of proceeding to arbitration when the COVID pandemic hit in or about March of 2020.
8. Since March of 2020 the arbitration has been postponed due to the pandemic.
9. In addition, on or about May of 2020 my office became aware that Plaintiff Orlando Garcia Gill had died of suspected Coronavirus.
10. In a letter dated June 23rd, 2020 my office notified Jonathan Weed of the American Arbitration Association as well as Defense counsel that my client had died.
11. On December 1st, 2020 defense counsel requested the action be dismissed as to Mr. Garcia Gill. On December 3rd, 2021 the court denied that request and noted a statement noting death was required to be filed.
12. On December 11th, 2020 defense counsel filed a statement noting death and on March 12th, 2021 Mr. Garcia Gill was dismissed as a party to the action.
13. Gustavo Martinez remains a Plaintiff in this action and my office currently represents Mr. Martinez.
14. On December 22nd, 2020 my office filed a motion to withdraw as counsel due to my plan to relocate to Florida. The court denied that motion.
15. On February 1st, 2021 I moved to Florida and I am currently residing in Miami Beach, Florida. I no longer have an apartment or am a resident of the State of New York.
16. I am preparing for the bar exam in Florida and do not plan to return to New York.
17. Prior to my move I spoke with Plaintiff Gustavo Martinez and notified him I would be unable to continue representing him due to my move to Florida and that I would seek to obtain substitute counsel.
18. My office has diligently attempted to find substitute counsel for the Plaintiff but has been unsuccessful.

19. Prior to my move on or about November of 2020 I was in communication with the law firm of Elefterakis Elefterakis and Panek who indicated to my office they would be taking over representation of Mr. Martinez.
20. By letter dated December 4th, 2020 Elefterakis Elefterakis and Panek notified my office they were declining to represent the Plaintiff.
21. I then contacted attorney Charen Kim, Esq. who indicated she would be taking over representation of the Plaintiff.
22. Ms. Kim had difficulty in contacting the Plaintiff but ultimately did meet with the Plaintiff approximately two weeks ago. I spoke with Ms. Kim earlier this week and she has declined to represent the Plaintiff.
23. In addition, my office has been unable to contact the Plaintiff. I have called Plaintiff at least ten times in that past two months.
24. The Plaintiff did answer my call on two occasions but advised he would call me back and then did not call me back.
25. It is unclear how motivated the Plaintiff is to continue to prosecute the action in question.
26. Despite performing substantial work on this case my firm and myself are not asserting a retaining or charging lien in this case as I believe this may hamper the Plaintiff's ability to obtain new counsel.
27. A copy of this motion will be served on the Plaintiff in conformity with Local Rule 1.4 (see attached Affidavit of Service).
28. Attached hereto is a copy of a proposed Order relieving my firm as attorney of record.
29. My office is also requesting this action be stayed for a period of sixty days to give Plaintiff time to obtain new counsel.
30. As a result of my inability to communicate with Plaintiff and the fact that I am no longer residing in the State of New York I am requesting the motion be granted in its entirety.
31. I thank the court in advance for its consideration.

Date: New York, New York
March 26, 2020

Respectfully submitted,

By: 
Brett Schatz, Esq.
Law Office of Brett M. Schatz PC
1345 6th Avenue, 2nd Floor
New York, NY 10105
Tel: (212) 631-7463
Fax: (646) 786-3325

Kenneth Harold Kirschner
Hogan Lovells US LLP
875 Third Avenue
New York, NY 10022
Attorney for Defendants
DANNY BENSUSAN, STEVE BENSUSAN,
GREENWICH VILLAGE ENTERTAINEMENT GROUP LLC.

Gustavo Martinez
2392 Valentine Avenue, Apt. 1
Bronx, NY 10458

Orlando Garcia Gil
2467 Valentine Avenue, Apt. A
Bronx, NY 10458